TOWARDS A BANKING UNION: SINGLE RESOLUTION MECHANISM ENHANCING BANKING INDUSTRY?

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Purpose – The paper reviews the proposal for a regulation of the European Parliament and of the Council establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Bank Resolution Fund, the influence of that file in the context of Banking Union and its main legal-operational-economical issues. One of the main purposes is to provide an overview and preliminary assessment of the Single resolution mechanism of the Commission proposal. Besides, to analyse, under the proposal in the context of Banking Union, areas where the most difficult legal, economical, policy debates are likely to arise in the course of further negotiations between Member States and the European Institutions.

Design/methodology/approach – Purposely to explore the actual meaning of legal norms and legislations as well as content and to analyze the literature the systematic, analyses, synthesis, comparative methods were used.

Findings – The Banking Union framework needs to progress to overcome the present fragmentation of financial markets and help break the link between sovereigns and the banking sector. It should promote a level playing field as well as provide an efficient common crisis management framework for banks in countries participating in the Single Supervisory Mechanism. The EU financial system will be significantly reshaped in the coming years as a consequence of creation of the banking union and the need to find additional sources of financing.The Single Resolution Mechanism (SRM) regulation as well as the Bank Recovery and Resolution Directive (BRRD) and the Deposit Guarantee Scheme Directive (DGSD) should be adopted as soon as possible, providing legal certainty to the market and a level playing field for the EU 27 Member States. In the light of recent developments, further clarity is needed, in particular in establishing a clear creditor

hierarchy and pecking order of bail in-able instruments. The clarity on a harmonized legal framework for resolution is however urgently needed. It is apparent that the creation of the adequate capital requirement rules, efficient centralized supervision and resolution and also harmonized protection of the depositors would ensure financial stability of the EU and is the priority for all the Europe. This would lead to the more transparent and efficient framework of the financial markets and higher Europe's competitiveness. Only within a full Banking Union, banks will be differentiated according to their risk profile and performance solely and will therefore compete with each other in equal terms regardless of where they are located. Powers to be transferred in the proposal imply a high degree of intrusion in the private sphere (ownership, debt obligations) and important financial/fiscal impact. This need to be reflected in the solidity of the legal basis- otherwise it may be risk the legal certainty of the decisions in respect to the SRM. Establishing SRM without bail in tool would transfer the resolution costs to be borne by Single Resolution Fund which would not have yet raised any contributions. There is potential risk that resolution powers provided to the Commission would conflict with role of the Commission in exercising state-aid control, this should be more clarified in the proposal and further negotiations. Given decision making model may raise independence issues.

Practical implications – The financial system in European Union is highly integrated and it set of regulatory incentives, based not only on common rules but also on integrated national powers in banking supervision, deposit insurance and crisis management, including resolution. The European Commission outlined in mid-2012 the concept of a 'Banking Union' as a major building block for the overhaul and deepening of the Economic and Monetary Union. Creation of the Banking Union is a key part of the policy, economical, legal measures to put Europe back on the path of economic recovery and growth. It is a crucial step to overcome the current financial fragmentation and uncertainty, also to break the link between the sovereigns and the banks; The paper critically analyzes the latest element of Banking Union and advantages and disadvantages of Single Resolution mechanism in the context of Banking Union.

Originality/Value – The European Commission outlined in mid-2012 the concept of a 'Banking Union' as a major building block for the overhaul and deepening of the Economic and Monetary Union. Creation of the Banking Union is a key part of the policy, economical, legal measures to put Europe back on the path of economic recovery and growth. It is a crucial step to overcome the current financial fragmentation and uncertainty, also to break the link between the sovereigns and the banks. Banking union

is indispensable to ensure financial stability and growth in the Euro Area and in the whole internal market. Therefore, the Commission has taken a comprehensive approach to build the Banking Union within the European Union. Many steps in the way of creation of the Banking Union and ensuring its effective functioning have been taken already (Capital requirements rules (CRD IV/CRR), some key elements (Single Supervisory Mechanism) are in the process of finalization. Last but not least, in line with the foregoing, 2013 July the Commission proposed a Regulation on a Single Resolution Mechanism. It should be noticed that SRM is a crucial step re-lunch cross-border banking activity in the Single Market to the benefit of both Euro Area and non-Euro Area Member States. The SRM will apply the single Rulebook on bank resolution set out in the Bank Recovery and Resolution Directive in respect of ailing banks from the participating Member States in the mechanism

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